

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|----------------|----------------------|---------------------|------------------|
| 09/429,939 10/29/1999 | | MICHEL AUTHIER | 6547 | |
| | | , | | |
| 7. | 590 11/16/2005 | | EXAM | INER |
| JOHN R ROSS III | | | FETSUGA, ROBERT M | |
| ROSS PATEN | T LAW OFFICE | | | |
| P O BOX 2138 | | | ART UNIT | PAPER NUMBER |
| DEL MAR CA 02014 | | | 2001 | |

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | Application No. | Applicant(s) | | | |
|---|--|---|----------------------------------|--|--|--|
| Office Action Summary | | 09/429,939 | AUTHIER ET AL. | | | |
| | | Examiner | Art Unit | | | |
| | | Robert M. Fetsuga | 3751 | | | |
| | The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply | | | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | | | | |
| Status | | | | | | |
| 1)⊠ | Responsive to communication(s) filed on <u>03 O</u> | <u>ctober 2005</u> . | | | | |
| 2a) <u></u> | This action is FINAL . 2b) ☐ This action is non-final. | | | | | |
| 3)□ | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is | | | | | |
| | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. | | | | | |
| Dispositi | on of Claims | | | | | |
| 4)⊠ | 4)⊠ Claim(s) <u>26-37 and 39-41</u> is/are pending in the application. | | | | | |
| | 4a) Of the above claim(s) is/are withdrawn from consideration. | | | | | |
| 5)□ | 5) Claim(s) is/are allowed. | | | | | |
| 6)[| Claim(s) is/are rejected. | | | | | |
| | Claim(s) is/are objected to. | | | | | |
| 8)⊠ | 8) Claim(s) <u>26-37 and 39-41</u> are subject to restriction and/or election requirement. | | | | | |
| Applicati | on Papers | | | | | |
| 9)☐ The specification is objected to by the Examiner. | | | | | | |
| 10) The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. | | | | | | |
| | Applicant may not request that any objection to the | drawing(s) be held in abeyance. Se | e 37 CFR 1.85(a). | | | |
| Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). | | | | | | |
| 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. | | | | | | |
| Priority u | ınder 35 U.S.C. § 119 | • | | | | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: | | | | | | |
| a)ı | 1.☐ Certified copies of the priority documents have been received. | | | | | |
| | 2. Certified copies of the priority documents have been received in Application No | | | | | |
| 3. Copies of the certified copies of the priority documents have been received in this National Stage | | | | | | |
| application from the International Bureau (PCT Rule 17.2(a)). | | | | | | |
| * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| | | | | | | |
| Attachmen | t(s) | | | | | |
| | e of References Cited (PTO-892) | 4) Interview Summary | | | | |
| | e of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | Paper No(s)/Mail D 5) Notice of Informal F | ate Patent Application (PTO-152) | | | |
| . — | r No(s)/Mail Date | 6) Other: | | | | |

Art Unit: 3751

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I: Figs. 2 and 6; and

Species II: Figs. 3-5.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 26, 32 and 40 are considered to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Application/Control Number: 09/429,939 Page 3

Art Unit: 3751

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

Robert M. Fetsuga Primary Examiner Art Unit 3751